
REVIEW OF CONSTITUTIONAL PROCESSES APPLYING TO URGENT DECISIONS

To: **Constitutional Review Working Party**

By: **Democratic Services & Scrutiny Manager**

Classification: **Unrestricted**

Summary: **To consider recommendations by the Overview & Scrutiny Panel.**

For Decision

1.0 Introduction and Background

- 1.1 Following a request by Council on 13 October 2011, the Overview & Scrutiny Panel considered, at its meeting on 22 March 2012, the constitutional processes that apply to urgent decisions by the Cabinet Leader, Cabinet Portfolio Holders and Cabinet collectively.
- 1.2 The report by the Corporate & Regulatory Services Manager to that meeting of the Panel is attached at Annex 1, with the remit of the Panel's review set out at paragraph 1.1 of the report.
- 1.3 Following consideration of the Corporate & Regulatory Services Manager's report, the Panel agreed to recommend:
 - 1.3.1 That after an urgent decision has been made, the Ward Members of the affected Ward are notified;
 - 1.3.2 That Cabinet Member decisions and key decisions by Council officers are recorded and distributed to Members along with the advice from officers leading to the decision.

2.0 Current Situation

- 2.1 The Constitutional Review Working Party is now asked to consider the recommendations set out at paragraphs 1.3.1 & 1.3.2 above.
- 2.2 As indicated at paragraph 3.1 of Annex 1, the constitutional procedures applicable to urgent decisions are contained in the following four rules:
 - 2.2.1 Rule 16, Access to Information Procedure Rules – General Exception (Extract at Annex 2 to this report)
 - 2.2.2 Rule 17, Access to Information Procedure Rules – Special Urgency (See Annex 3)
 - 2.2.3 Rule 4, Budget and Policy Framework Procedure Rules – Urgent Decisions outside the Budget and Policy Framework (See Annex 4)
 - 2.2.4 Rule 15 (L), Overview & Scrutiny Procedure Rules – Call-in and Urgency (See Annex 5)

- 2.3 The procedures relating to records of decisions are set out in Access to Information Procedure Rules 19.0 & 20.3 (Extract of Rules 19 & 20 attached at Annex 6) and Overview and Scrutiny Procedure Rule 15 (b) & (c) – Call-In (Annex 7)
- 2.4 It should be noted by the Working Party that it is currently the practice that a record of any decision taken by Cabinet or an individual Cabinet Member is produced and then published on the internet as soon as possible after the taking of that decision, with all Members being notified of the decision automatically by email, upon publication.
- 2.5 Details of published decisions can be found on the Council’s website at:
<http://tdc-mg-dmz.thanet.gov.uk/mgDelegatedDecisions.aspx?bcr=1>.
- 2.6 It has come to the attention of Democratic Services that not all individual Cabinet Member decisions are supported by a full report; the constitution however does not explicitly require this to be the case as shown in Access to Information Rule 20.1 (Annex 6). In the interests of good governance, the Working Party may wish to recommend that this Rule be amended to read:
- 2.6.1 “When an individual Cabinet Member is taking a key decision they must make that decision considering a report from the relevant officer and that decision must not be made until 5 days after the receipt of that report.”
- 2.6.2 “When an officer is taking a key decision they must make that decision considering a report and that decision must not be made until 5 days after the receipt of that report.”
- 2.7 Note that the above also corrects the time period to the current “5 clear days” required under Access to Information rules.
- 2.8 If the above were adopted by Council, Democratic Services would publish both decisions and reports in the usual way, including sending emails to Members notifying them of publication, provided such officer reports are supplied to the Democratic Services team.

3.0 Corporate Implications

3.1 Financial and VAT

- 3.1.1 There are no direct financial implications arising from this report.

3.2 Legal

- 3.2.1 Any changes made to procedure rules will require the Council’s constitution to be amended.

3.3 Corporate

- 3.3.1 The Council’s constitution sets out the basic rules governing the Council’s business.

3.4 Equity and Equalities

- 3.4.1 None specific

4.0 Recommendation(s)

- 4.1 That the Working Party considers any changes necessary to the constitutional procedure rules.

5.0 Decision Making Process

- 5.1 Any recommendations by the Working Party will be referred to the Standards Committee, whose agreed recommendations will then be referred to full Council.

Future Meetings:

Standards Committee	9 May 2012
Council	12 July 2012

Contact Officer:	Glenn Back, Democratic Services & Scrutiny Manager, Ext 7187
Reporting to:	Harvey Patterson, Corporate & Regulatory Services Manager and Monitoring Officer, Ext 7005

Annex List

Annex 1	Report by Corporate & Regulatory Services Manager to the meeting of Overview & Scrutiny Panel, held on 22 March 2012-04-13
Annex 2	Access to Information Procedure Rule 16 – General Exception
Annex 3	Access to Information Procedure Rule 17 – Special Urgency
Annex 4	Budget and policy Framework Procedure Rule 4 – Urgent Decisions outside the Budget or Policy Framework
Annex 5	Overview & Scrutiny Procedure Rule 15 (L) – Call-in and urgency
Annex 6	Access to Information Procedure Rules 19 & 20 – Record of decisions
Annex 7	Overview and Scrutiny Procedure Rule 15(b)

Background Papers

Title	Details of where to access copy
None	

Corporate Consultation Undertaken

Finance	N/A
Legal	Harvey Patterson, Corporate & Regulatory Services Manager & Monitoring Officer, Ext 7005
Communications	Hayley Eversfield, Corporate Communications Officer, Ext 7169